

TYSON & MENDES LLP
THOMAS E. MCGRATH
Nevada Bar No. 7086
Email: tmcgrath@tysonmendes.com
CHRISTOPHER A. LUND
Nevada Bar No. 12435
Email: clund@tysonmendes.com
8275 South Eastern Avenue, Suite 115
Las Vegas, Nevada 89123
Tel: (702) 724-2648
Fax: (702) 938-1048
*Attorneys for Double Diamond Ranch Master
Association*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALESSI & KOENIG LLC, a Nevada limited
liability company,

Plaintiff,

vs.

RICHARD SILVERSTEIN, an individual;
SANDRA SILVERSTEIN, an individual;
COUNTRYWIDE HOME LOANS, INC., a
foreign corporation; THE CITY OF RENO, a
domestic government entity; WASTE
MANAGEMENT OF NEVADA, INC., a
domestic corporation; DEPARTMENT OF
TREASURY, INTERNAL REVENUE
SERVICE, a domestic corporation, DOES
INDIVIDUALS I-X, inclusive, and ROE
CORPORATIONS XI-XXX, inclusive,

Defendants.

BANK OF AMERICA, N.A.,

Counter/Cross Claimant,

v.

ALESSI & KOENIG LLC, a Nevada limited
liability company, SFR INVESTMENTS POOL
I, LLC, a Nevada limited liability company; Does
1 through 10; and ROES 1 through 10, inclusive,

Counter/Cross Defendants.

Case No. 3:15-cv-00520-RCJ-WGC

**CROSS-DEFENDANT DOUBLE
DIAMOND RANCH MASTER
ASSOCIATION'S LIMITED
OPPOSITION TO BANK OF
AMERICA'S MOTION FOR
SUMMARY JUDGMENT**



8275 South Eastern Avenue, Suite 115
Las Vegas, Nevada 89123

SFR INVESTMENTS POOL I, LLC, a Nevada
limited liability company,

Counterclaimant/Cross-claimant,

v.

BANK OF AMERICA, N.A., UNITED STATES
OF AMERICA; NATIONSTAR MORTGAGE,
LLC, a Delaware limited liability company; and
RICHARD SILVERSTEIN, an individual;
SANDRA SILVERSTEIN, an individual; DOES
1 through 10, and ROE BUSINESS ENTITIES 1
through 10, inclusive,

Counter/Cross-Claimant, Cross
Defendants

COMES NOW CROSS-DEFENDANT DOUBLE DIAMOND RANCH MASTER
ASSOCIATION (“Double Diamond”) by and through its counsel of record, Christopher A.
Lund, Esq., of TYSON & MENDES and hereby submits its limited opposition to Bank of
America’s Motion for Summary Judgment as follows:

I. ARGUMENT

Cross-Defendant Double Diamond does not claim an ownership interest in the property
that it the subject of this case nor does it take a position regarding whether its foreclosure sale
extinguished Defendant/Crossclaimant BANK OF AMERICA, N.A.’s (“Bank of America”)
alleged interest in the subject property.

Although Bank of America states at the beginning of its Motion for Summary Judgment
 (“Motion”) that it “moves for summary judgment on all claims in this matter,” based on the
arguments raised in its Motion, it appears Bank of America is only seeking summary judgment
on its claims for Quiet Title and Declaratory Relief. Bank of America does not appear to be
seeking judgment on its alternative remedy claims directed against Double Diamond in its cross
claims. These alternative remedy theories include Bank of America’s Fourth Cause of Action for
Unjust Enrichment, its Fifth Cause of Action for Tortious Interference with Contractual
Relations, its Sixth Cause of Action for Breach of the Duty of Good Faith and its Seventh Cause
of Action for Wrongful Foreclosure.

All of the aforementioned alternative remedy theories Bank of America asserts against

Double Diamond involve disputed questions of fact. Furthermore, Bank of America did not lay out arguments in its Motion showing it is entitled to relief on its alternative remedy theories. In addition, they are only relevant if the Court finds that Double Diamond's foreclosure sale extinguished Bank of America's alleged interest in the property. If the Court found against Bank of America regarding its Quiet Title and Declaratory Relief Claims, whether Bank of America sustained any damage from its loss of interest in the subject property and the amount of any such damages involved disputed questions of fact. Therefore, Bank of America rightfully does not seek summary judgment regarding the aforementioned causes of action.

Assuming the Court agrees with this interpretation of Bank of America's Motion for Summary Judgment, because Double Diamond claims no ownership interest in the subject property, it does not take any position regarding the outcome of SFR Investment Pool 1, LLC's and Bank of America's competing motions for summary judgment regarding their Quiet Title and Declaratory Relief Claims.

If the Court grants Bank of America's Motion for Summary Judgment, Double Diamond respectfully submits that the Court should dismiss Bank of America's remaining causes of action asserted in its Crossclaim, on the grounds that they are rendered moot.

DATED this 7th day of August, 2017.

TYSON & MENDES LLP

/s/ Christopher A. Lund

THOMAS E. MCGRATH, ESQ.

Nevada Bar No. 7086

CHRISTOPHER A. LUND

Nevada Bar No. 12435

8275 S. Eastern Avenue, Suite 115

Las Vegas, Nevada 89123

Tel: (702) 724-2648

Attorneys for Defendant

Double Diamond Ranch Master Association

CERTIFICATE OF SERVICE

The undersigned, an employee of Tyson & Mendes LLP, hereby certifies that on the 7th day of August, 2017 a copy of the foregoing **CROSS-DEFENDANT DOUBLE DIAMOND RANCH MASTER ASSOCIATION'S OPPOSITION TO BANK OF AMERICA'S MOTION FOR SUMMARY JUDGMENT** was made by electronic service to all interested parties.

Huong X. Lam, Esq.
Bradley D. Bace, Esq..
ALESSI & KOENIG, LLC
9500 W. Flamingo Rd., Ste. 205
Las Vegas, NV 89147
Email: huong@alessikoenig.com;
brad@alessikoenig.com;
Attorneys for Alessi & Koenig, LLC

Howard C. Kim, Esq.
Diana Cline Ebron, Esq.
Jacqueline A. Gilbert, Esq.
Karen L. Hanks, Esq.
KIM GILBERT EBRON
7625 Dean Martin Drive, Suite 110
Las Vegas, NV 89139
Email: howard@kgelegal.com;
diana@kgelegal.com; jackie@kgelegal.com;
karen@kgelegal.com
Attorneys for SFR Investments Pool I, LLC

Virginia Cronan Lowe, Esq.
Trial Attorney, Tax Division
U.S. DEPARTMENT OF JUSTICE
P.O. Box 683
Ben Franklin Station
Washington, DC 20044
Email: virginiacronan.lowe@usdoj.gov
Attorneys for United States Department of Treasurer, Internal Revenue Service

Holly A. Vance, Esq.
U.S. ATTORNEY'S OFFICE
100 West Liberty
Reno, NV 89501
Email: Holly.A.Vance@usdoj.gov
Attorneys for United States Department of Treasury, Internal Revenue Service

Darren T. Brenner, Esq.
Eric Sebastian Powers, Esq.
Thera Cooper, Esq.
Tenesa S. Scaturro, Esq.
AKERMAN, LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Email: Darren.brenner@akerman.com;
Eric.Powers@akerman.com;
Thera.cooper@akerman.com;
tenesa.scaturro@akerman.com
Attorneys for Defendant Bank of America, NA., successor by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans, Inc.

/s/ Kathryn Savage-Koehm
An employee of Tyson & Mendes LLP



8275 South Eastern Avenue, Suite 115
Las Vegas, Nevada 89123